

EXHIBIT 5

AMTRAK MW SETTLEMENT FUND

INSTRUCTIONS TO FILE A CLAIM OR JOB RELIEF ELECTION FORM

YOU MAY HAVE A CLAIM FOR MONETARY
AND/OR JOB RELIEF IN CONNECTION WITH THE
SETTLEMENT OF THE *THORNTON* RACE
DISCRIMINATION LAWSUIT AGAINST AMTRAK.

If you want to file a claim for a monetary award from the Amtrak MW Settlement Fund, you must complete and sign a **Claim Form**, along with any attachments required by that form, and mail it in the enclosed envelope by **June 30, 2000**. The form must be addressed to Class Counsel's agent at Amtrak MW Employment Litigation, P.O. Box 6336, Portland, OR 97228-6336.

If you want to obtain job relief, you must complete and sign a **Job Relief Election Form** and mail it in the enclosed envelope by **June 30, 2000**. The form must be addressed to Class Counsel Sprenger & Lang, PLLC, 1614 – 20th Street, NW, Washington, DC 20009. Read all instructions carefully before deciding whether to file a Job Relief Claim. It will **reduce the amount of money** that you may receive from your Claim Form.

If you want to seek both types of relief, you must complete and sign **both** the **Claim Form** and the **Job Relief Form** and mail them in the enclosed envelope by **June 30, 2000**.

No forms received in envelopes postmarked after June 30, 2000 will be considered. You are allowed to file only one Claim Form and/or one Job Relief Election Form even if you have claims relating to more than one personnel action. The Forms are designed so you can record all of your claims within the time period covered by the lawsuit.

This is the relevant time period for claims:

CLAIMS BY ALL CURRENT AND FORMER BLACK EMPLOYEES OF AMTRAK WHO WORKED IN POSITIONS COVERED BY COLLECTIVE BARGAINING AGREEMENTS BETWEEN AMTRAK AND THE BMW, AND FOR THE NORTHEAST CORRIDOR, OR FOR THE MBTA, AND ALL BLACK PERSONS WHO APPLIED FOR SUCH POSITIONS AND WERE NOT HIRED, AT ANY TIME BETWEEN **JANUARY 1, 1995 AND MAY 5, 2000.**

Claims that arose before January 1, 1995, or after May 5, 2000 are NOT eligible for awards from the settlement fund or for job relief.

Individuals who were terminated from Amtrak because they either tested positive for drug use or were involved in actual violence at an Amtrak work site, are not eligible for Job Relief, although they may be eligible for monetary relief and may file a monetary Claim Form.

CLAIM FORM FOR MONETARY RELIEF:

Be sure to **follow these instructions** to find out if you may be eligible for an award of money:

1. **Fill out the Claim Form completely and truthfully.** Describe every incident of racial discrimination that occurred between January 1, 1995 and May 5, 2000. Be as accurate as possible. For example, if a question asks when something occurred and you know the year but not the month or date, insert only the year.
2. The information you provide is confidential. It will be disclosed **only** to the lawyers for the class except as the Court may otherwise order. **Failure to fill out either form truthfully will result in disqualification from participation in the settlement and may expose you to charges of unlawful perjury.**
3. Put it into the pre-addressed envelope that comes with this letter.
4. Mail it by **June 30, 2000**. You must add postage.
5. You **must** inform Class Counsel's agent at Amtrak MW Employment Litigation, P.O. Box 6336, Portland, OR 97228-6336, of any address change after you mail the Claim Form. **Failure to do so within ninety (90) days of any change of address may result in disqualification of your claim and/or loss of all money which otherwise would have been awarded.**

ELECTION FOR JOB RELIEF FORM:

Be sure to **follow these instructions** to find out if you may be eligible to participate in the job relief process and to determine if you wish to participate given the **costs to you of participating in it:**

1. **Limitations on Participation.** You may participate in the Job Relief Process **only** if your claim involves one of two situations. You may participate if your claim involves discrimination in termination. Class members who were terminated following a positive drug test, or who engaged in actual violence at an Amtrak work site, however, are not eligible to participate in the Job Relief Process and should **not** fill out a Job Relief Election Form.

Alternatively, you may participate in the Job Relief Process if you were discriminatorily denied an opportunity to get qualifications certification (and placement on the corresponding seniority roster); a white employee was improperly qualified in advance of you; as a consequence of the preferential

treatment of the white employee, he got a senior placement on the roster and bypassed you for better job(s); and you later were given the opportunity to be tested, and passed, thereby demonstrating your ability to be qualified in the first instance.

2. **Costs to You of Participating in the Job Relief Process.** If you choose to participate in the Job Relief Process, **WHETHER OR NOT YOU SUCCEED IN PROCURING JOB RELIEF**, YOUR MONETARY AWARD FROM THE CLAIM FUND WILL BE REDUCED. Do not fill out and submit the form if you do not wish to lose points associated with your claim for monetary relief.

If you elect to participate, and are seeking reinstatement after termination, you will automatically lose:

- a. **Fifty percent (50%)** of your total points allocated to your claims for monetary relief under the formula used by the Court, other than points for contribution to the case; and
- b. **All (100%)** of the points allocated to the claim for which Job Relief is sought.
- c. **If you were a probationary employee at the time that you were terminated, you will lose all (100%) of the points for monetary relief under the formula, other than points for contribution to the case.**

Example. Assume hypothetically that you receive 100 total points under the Court's formula -- 25 for case participation, 25 for hostile environment, and 50 for discriminatory termination. If you elect to pursue Job Relief on the termination claim, then you will lose 50 points (your entire allocation for the termination claim) and 50% of your remaining 25 points for hostile environment, for a total of 62.5 points lost. Thus, instead of receiving a share of the Claims Fund proportionate to 100 points, your share will be proportionate to 37 ½ points. If you were a probationary employee when you were terminated and you pursue Job Relief, you will lose your entire allocation for the monetary claim, except for the 25 contribution points. .

This means that your monetary award will be less than if you did not participate in the Job Relief Process.

If you elect to participate, and are seeking retroactive seniority because of the discriminatory denial of qualifications certification, you will automatically lose:

- b. **Twenty-five percent (25%)** of your total points allocated to your claims for monetary relief under the formula used by the Court, other than points for contribution to the case; and

- b **All (100%) of the points allocated to the claim for which Job Relief is sought.**

Why the Costs?

The settlement is structured this way for two reasons. First, if you are successful in gaining Job Relief, your economic damages will be less prospectively because you will have no loss of “front-pay.” Thus, you should take proportionately less from the Settlement Fund. And second, the Job Relief Process is extremely expensive. For Class Members who were terminated, the process entails a three-step effort to secure a job with Amtrak for you – negotiation, mediation, and arbitration (a mini-hearing). For “Test-takers” seeking retroactive seniority, the process entails close scrutiny of their claim by a Board set up to review their allegations, as well as review by Class Counsel. The majority of class members will prefer not to bear the costs associated with Job Relief, for themselves or others, relying instead either on their monetary claim for compensation or on the systemic changes required by Amtrak under the Consent Decree to assist them with moving ahead in the future.

3. If you have questions about whether Job Relief is appropriate for you given these costs, please call Sprenger & Lang at 202-265-8010 or write to Sprenger & Lang at 1614 – 20th Street, N.W., Washington, DC 20009-1001. One of the Class Counsel will respond as promptly as possible.
4. Fill out the Job Relief Election Form completely and truthfully. The information you provide is confidential. It will be disclosed **only** to the lawyers for the class except as the Court may otherwise order. **Failure to fill out either form truthfully will result in disqualification from participation in the settlement and may result in prosecution for perjury.**
5. Put it into the pre-addressed envelope that comes with this letter.
6. Mail it by **June 30, 2000**. You must add postage.
7. You **must** keep Class Counsel’s agent at Amtrak MW Employment Litigation, P.O. Box 6336, Portland, OR 97228-6336, informed of any address change after you mail the Claim Form. Failure to do so within ninety (90) days of any change of address may result in disqualification of your claim and/or loss of all money which otherwise would have been awarded

IF THE ENVELOPE CONTAINING YOUR CLAIM OR JOB RELIEF ELECTION FORM IS NOT POSTMARKED BY JUNE 30, 2000, IT WILL <u>NOT</u> BE ALLOWED PURSUANT TO LAW.

You will be notified later about the status of your claim. If you have any questions, write or telephone lead counsel for the plaintiff classes:

Michael Lieder
Maia Caplan
Sprenger & Lang
P.O. Box 19500
Washington, D.C. 20036

Phone: (202) 265-8010
(You may leave a recorded message 24 hours a day)

If you have a question about the status of your monetary claim once you've filed it, however, you should direct your inquiry to Class Counsel's agent at:

Amtrak MW Employment Litigation
P.O. Box 6336
Portland, OR 97228-6336
Phone (800) 768-1104